

JOEY DUNCAN §  
v. § CIVIL ACTION NO. 9:10cv14  
DIRECTOR, TDCJ-CID §

The Petitioner Joey Duncan, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of prison disciplinary action taken against him. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Duncan was convicted of the disciplinary offense of attempted assault on a correctional officer, for which he received 15 days of solitary confinement, 30 days of cell and commissary restrictions, and the loss of 365 days of good time credits. The Magistrate Judge ordered the Respondent to answer the petition, and the Respondent has filed an answer saying that Duncan is not eligible for release on mandatory supervision and has not shown that any of the punishments inflicted as a result of the disciplinary case deprived him of any constitutionally protected liberty interests.

After review of the pleadings, the Magistrate Judge issued a Report on July 5, 2010, recommending that the petition be dismissed with prejudice because no constitutionally protected liberty interests were infringed as a result of the disciplinary case at issue. Sandin v. Conner, 115 U.S. 2293, 2301 (1995). The Magistrate Judge also recommended that a certificate of appealability be denied *sua sponte*. Duncan received a copy of this Report on or before July 15, 2010, but filed

no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus be and hereby is DISMISSED with prejudice. It is further

ORDERED that the Petitioner Joey Duncan is hereby DENIED a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby DENIED.

So **ORDERED** and **SIGNED** this **24** day of **August, 2010**.



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Ron Clark, United States District Judge